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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,406	12/10/2001	John Puckhaber	6791	4828

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EXAMINER
SALVATORE, LYNDA

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/016,406	PUCKHABER ET AL.	
	Examiner	Art Unit	
	Lynda M Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claims 4 and 6 are objected to because of the following informalities: the use of the word "characterized" is objected to. In order to conform to standard U.S. practice, it is suggested that Applicant amend the claims to read on "wherein." Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,436,887. Although the conflicting claims are not identical, they are not patentably distinct from each other because they appear to be obvious variants of one another. The instant claims are drawn to a floor cleaning wipe of a two layered substrate impregnated with like cleaning compositions. Both are hence, the patent claims fully encompassed by the present claims.

4. Claims 1-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,495,499. Although the conflicting claims are not identical, they are not patentably distinct from each other because they

appear to be obvious variants of one another. The instant claims are drawn to a floor cleaning wipe of a two layered substrate impregnated with like cleaning compositions. Both are hence, the patent claims fully encompassed by the present claims.

5. Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 09920673. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are drawn to a floor cleaning wipe of a two layered substrate impregnated with like cleaning compositions.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1,3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanvalet et al. (US 5,380,452) in view of Lloyd et al. (US 4,600,620) or Smith, III et al. (US 5,914,177). Blanvalet et al. disclose a hard surface cleaning composition. The cleaning composition comprises approximately by weight 2 to 35% of a tall oil fatty acid (col 3, ln 12-14), 1 to 5 wt % of an alkali metal hydroxide, specifically potassium hydroxide (col 4, ln 7-14), 0.02 to 2 wt % of an amine oxide, specifically cocoamido-propylamine oxide (col 4, ln 28-32), 0.02 to 2 wt% of a

sultaine (col 3, ln 16), specifically cocoamido-alkylhydroxy sultaine (col 3, ln 54), and the balance being water (col 3, ln 22). With regard to claim 3, the composition may also comprise chelating agents (Column 1, 55-58). With regard to claim 4, the composition also comprises an alkanol having about 1 to about 5 carbon atoms (col 4, ln 22-26). The composition also comprises 0.01 to 1.5 wt% of a perfume (col 3, ln 21). Blanvalet et al. disclose the claimed invention except for the teaching that 80-95 wt % of the cleaning composition is impregnated on 5-20 wt % of a non-woven fabric.

However, the patent issued to Lloyd et al. (US 4,600,620) disclose a multi-layer wiping cloth, suitable for wiping hard surfaces, comprising a sheet substrate carrying a cleaning composition (abstract, Figures 2-4, and Column 6, 19-23(. The substrate can be non-woven fabrics (Example 2). Alternatively, Smith, III et al. (US 5,914,177) disclose a wipe that can be used as a hard surface cleaner (col 3, ln 15-19). The wipe comprises a substrate and an emulsion disposed thereon. The substrate can be a non-woven fabric or a multi-layer laminate (col 3, 21-24 and Column 20, 7-10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the cleaning composition of Blanvalet et al. on the substrate (i.e. the non-woven fabrics) of either Lloyd et al. or Smith, III et al., motivated by the desire to obtain an easy-to-use cleaning wipe having increased ease of handling and use.

The combination of Blanvalet et al. and Lloyd et al. or Smith, III et al. disclose the claimed invention except for the specific teaching that the wipe comprises 5-20 wt % of a non-woven fabric and 80-95 wt % of the cleaning composition and the amount of amine oxide surfactant. However, it should be noted that optimizing the amount of fabric and cleaning

composition constituents are result effective variables. For example, the greater the amount of cleaning composition and/or ratio of constituents directly affects the cleaning capabilities. The greater the fabric directly affects the strength of the fabric itself. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used 5-20 wt % of the non-woven fabric and 80-95 wt % of the cleaning composition or the specific range of .001 wt.% to .01 wt.%, of an amine oxide surfactant since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch,* 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the fabric and cleaning composition amounts motivated by the desire to obtain a durable fabric having increased cleaning capabilities. been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch,* 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the fabric and cleaning composition amounts and/or constituents motivated by the desire to obtain a durable fabric having increased cleaning capabilities.

8. Claims 2,9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanvalet et al. (US 5,380,452) in view of Lloyd et al. (US 4,600,620) or Smith, III et al. (US 5,914,177) as applied to claim 1 above and further in view of Shantz et al., US 20010055609

The combined aforementioned prior art fails to teach the use of a preservative, however the published application to Shantz et al., teaches a pre-moistened lotion comprising wipe (Title). The pre-moistened wipe lotion composition may include surface active agents such as surfactants, preservatives and fragrances (Section 0002). Shantz et a., teaches that the pre-moistened wipe is suitable for cleansing use of skin and surfaces of objects such as those found

in kitchens and bathrooms (Section 0003 and 0030). Shantz et al., teaches that preservatives prevent microbial growth in the composition and/or substrate.

Therefore, motivated to prevent microbial growth it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a preservative as taught by Shantz et al., in the cleaning composition Blanvalet et al.

With regard to claims 9 and 10, Shantz et al., teaches a variety of substrates suitable for use. Specifically, Shantz et al., teaches natural fibers such as cellulosic and synthetic fibers such as polyester (Section 0065). Various non-woven forming methods include adhesive bonding, and needle-punching (Section 0066). Shantz et al., also teaches that the substrate may comprise a laminate of two non-woven webs (Section 0073). Therefore, motivated by the desire to have a sufficiently durable substrate, it would have been obvious to one having ordinary skill in the art to form the multi-layer substrates taught by Lloyd et al. or Smith, III et al., using the materials and techniques taught by Shantz et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls
July 14, 2003

CHERYL A. JUSKA
SUPERVISORY EXAMINER